

REMARKS

Applicant has carefully reviewed the Application in light of the Final Office Action mailed June 30, 2005. At the time of the Final Office Action, Claims 1-3, 6-15, and 18-22 were pending in the Application. Applicant amends Claims 1, 11, 12, and 13 without prejudice or disclaimer. The amendments to these claims are not the result of any prior art reference and, thus, do not narrow the scope of any of the claims. Furthermore, the amendments are not related to patentability issues and only further clarify subject matter already present. All of Applicant's amendments have only been done in order to advance prosecution in this case. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 103 Rejection

The Examiner rejects Claims 1-3, 6, 11-15, and 18 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,353,742 issued to Bach (hereinafter "*Bach*") in view of U.S. Patent No. 6,590,879 issued to Huang et al. (hereinafter "*Huang*"). The Examiner rejects Claims 7-10 and 19-22 under 35 U.S.C. §103(a) as being unpatentable over *Bach* in view of *Huang* and further in view of U.S. Patent No. 6,141,347 issued to Shaughnessy et al. (hereinafter "*Shaughnessy*"). Applicant respectfully traverses these rejections for the following reasons.

Independent Claim 1 is allowable because it simply includes subject matter that is not provided in any of the references of record. Applicant respectfully reminds the Examiner of the duty imposed by §103 to show each of the limitations of the claims in the Prior Art references on which the Examiner relies for his rejection. Applicant understands the Examiner's current position, but is also confident in the allowability of the pending claims.

Independent Claim 1 discloses the selection of a given data stream being determined by at least a power level and a signal quality of the selected data stream. Independent Claim 1 also includes determining which base transceiver station is to accommodate an associated communication session based on at least a signal strength associated with the selected mobile station, a signal quality associated with the mobile station, and a predicted position associated with the selected mobile station. The Examiner concedes that *Bach* does not offer anything pertinent to such operations. (See Previous Office Actions.) However, the Examiner has relied on *Huang* to fill this void. *Huang* is deficient in that it does not offer any teaching of a "predicted position" being used to determine which base transceiver station is to accommodate a

communication session. Moreover, *Huang* fails to offer such a decision being made based on “signal quality.”

Applicant has reviewed the passage cited by the Examiner for these operations (i.e. Column 8, lines 6-18 of *Huang*) and, further, (for his own edification) read *Huang* in its entirety in an attempt to seek out information that could be relevant to the pending subject matter. Applicant can confirm that *Huang* simply does not contain teachings that would inhibit the patentability of the pending claims. Note that the Examiner, should he continue to reject the pending claims, is obligated to show all three of these parameters (i.e. signal strength, signal quality, and predicted position) being used concurrently to make the determination of which base transceiver station is to accommodate the communication session.

It should also be noted that neither *Bach* nor *Huang* are capable of offering an operation akin to selecting a given data stream (amongst a plurality of data streams) using at least a power level and a signal quality of the selected data stream. This is done before the determination step, as outlined previously. Again, both of these elements would need to be provided in the Prior Art to properly sustain a §103 rejection. For at least these reasons, Independent Claim 1 is clearly patentable over the references of record. Additionally, Independent Claim 11, 12, and 13 include similar limitations and, thus, are also allowable over the references of record.

Accordingly, all of the pending claims have been shown to be allowable, as they are patentable over the proposed references. Formal notice to this effect is respectfully requested in the form of a full allowance of all the pending claims.

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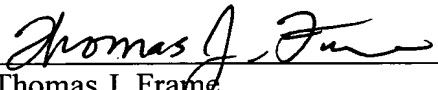
CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant believes no fee is due. If this is not correct, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts, L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact its attorney, Thomas J. Frame, at (214) 953-6675.

Respectfully submitted,  
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